ZONING BOARD OF APPEALS

3300 Central Parkway, Cincinnati, Ohio 45225



numbered.

Signature_

APPLICATION FOR APPEAL TO THE ZONING BOARD OF APPEALS

FOR OFFICE USE ONLY
File No. <u>2 - 4003 - 2013</u>
Date Filed
Date of Decision
Appealed
Hearing Date
ZBA Decision
Date of Decision

**************************************	Appealed
	Hearing Date
	ZBA Decision
	Date of Decision
SUBJECT PROPERTY	
ADDRESS 6408 Warrick St.	
BASE ZONING CLASSIFICATION Manufacturing Lim	
ZONING OVERLAY	
APPELLANT Charles T. Salemme c/o Peter C. Link, attor	rneyTELEPHONE <u>(513)</u> 338-5636
ADDRESS 810 Sycamore Street, 5th Floor	
CITY Cincinnati	STATE Ohio ZIP CODE 45202
EMAIL peterclink@cincilaw.net	
OWNER Charles T. Salemme	TELEPHONE
ADDRESS 7825 Dones Ave.	
CITY Cincinnati	STATE Ohio ZIP CODE 45243
EMAIL	
AUTHORITY OF APPEAL - Indicate the appropria	ate section of 1449-03 that qualifies you to make an appeal 1449-03(a)
NATURE OF APPEAL - I am appealing a decision	/order of the (indicate case #): BC20130509
Director of City Planning and Buildings (1449-13)	XXX
Zoning Hearing Examiner (1449-15)	
nistoric Conservation board (1449-15)	
JUSTIFICATION FOR APPEAL - Attach a separa	te sheet explaining in detail the basis of your appeal.
SUBMISSION REQUIREMENTS	
The applicant is required by Section 1449-15(I complete record of the proceeding along with a complete record of t	 of the Zoning Code to file within 21 days of filing notice of appeal; a a transcript of all testimony.
FEES: Residential 1, 2, & 3, Fa	amily \$500 Multi-Family/Commercial \$750
2. Nine copies of the complete case file, including	g this application and a transcript of any public hearing if applicable.

No submittal will be accepted unless these materials are spiral bound or in a notebook, indexed and all pages

Date

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PETER C. LINK, ESQ.

810 Sycamore Street, Fifth Floor Cincinnati, Ohio 45202 Phone: (513) 338-5636 Fax: (513) 263-9045

Email: peterclink@cincilaw.net

November 11, 2013

VIA HAND-DELIVERY Zoning Board of Appeals 3300 Central Parkway Cincinnati, Ohio 45225

To the Clerk:

Re: Application for Appeal to Zoning Board of Appeals

Subject Property: 6408 Warrick Street

Case No. BC20130509

Enclosed, please find the original and 8 copies of the complete file in the above referenced case including the Application for Appeal to the Zoning Board. Also enclosed is a check in the amount of \$750.00 for the associated filing fee. Please file the appeal and place this matter on the December 19, 2013 Zoning Board docket.

Gratefully yours,

Counsel for Owner

Enclosures

City of Cincinnati

Department of Community Development Division of Property Maintenance Code Enforcement



Milton R. Dohoney Jr. City Manager

Michael L. Cervay *Director*

Edward P. Cunningham Division Manager

One Centennial Plaza 805 Central Avenue Seventh Floor Cincinnati, Ohio 45202 Phone (513) 352-3275 Fax (513) 564 -1708

SALEMME CHARLES T 7825 DONES AVE CINCINNATI OH 45243

Re:6408 WARRICK ST Auditor ID BPP: 003700030005

Illie Stone

NOTICE OF VIOLATION

Case number: BC20130509

o: SALEMME CHARLES T

NOTICE DATE: October 22, 2013

This letter is a notice of violation and order issued pursuant to 1451-01. Cincinnati-Ohio Zoning Code (CZC). Each code violation in the attached violation listing includes the action necessary to correct the violation. Unless otherwise specified in a violation, you are required to make the noted corrections by 11/21/2013. Please call me at 352-1916 between 8:00 - 10:00 a.m. to acknowledge receipt of this notice and ask questions. If I do not hear from you within ten days of the date of this notice, a copy of this notice will be posted on the building. Failure to correct the noted defects within the time specified could result in civil or criminal enforcement actions.

You have a right to appeal certain orders under Sections 1449-09 CZC within 30 days of the date of this notice by filing an appeal with the Zoning Board of Appeals at 3300 Central Parkway, Cincinnati, Ohio, 45225.

Your cooperation in correcting these violations will assist the City of Cincinnati in maintaining quality housing and property conditions in your neighborhood.

Sincerely,

Ollie Stone District Inspector

c#CODE6808



VIOLATION LISTING

10/22/2013 E=0130509

PARKING SCREEN FENCE

1425-27. Parking Lot Screening. Cincinnati Ohio Zoning Code

Discontinue parking of four or more vehicles without an appropriate screen fence between four and six feet in height

In Residential Districts, a screen fence or solid wall is required for parking areas for four or more vehicles which adjoin or face any other premises, either abutting or directly opposite across-the-street, situated in any Residential or Parks and Recreation District. The fence or wall must be at least four feet and a maximum of six feet in height and must be maintained in good condition. A combination of a four-foot high berm with three-foot high continuous evergreen hedgerow or four-foot high continuous evergreen hedgerow may be substituted for screen fencing and walls. The fence is not required along that side of the property where one of the following conditions exist:

- (a)
 Abutting Parking Lot. The abutting property is developed with a parking lot within 25 feet of the common property line for four or more vehicles.
- Grade Differential. The abutting property has an average elevation of four feet or more above the parking area surface, within an average horizontal distance of eight feet from the parking area.
- (c) uffer Yard. The requirements of § 1423-13, Required Buffer Yards are satisfied.

2 PARKING ON UNPAVED SURFACES

1. PERMIT REQUIRED IF LOT IS PAVED

Discontinue parking motor vehicle on unpaved surface.

1425-37 (b)

(b) Maintenance. Parking areas, maneuvering aisles and loading spaces must be maintined in good conrition and paved with asphalt, concrete, interlocking masonry pavers or surfaced with open honeycomb paving blocks which allow grass or ground cover to grow except as otherwise authorized by the Director of Buildings and Inspections.



§ 1425-37. Surfacing, Drainage and Grade of Parking and Loading Facilities.

Parking and loading facilities must comply with the following standards:

- (a) Maximum Slope. The maximum slope of any required maneuvering aisle, parking space or loading space is ten percent and the maximum slope of any required driveway is 15 percent.
- (b) Surfacing. Parking areas, maneuvering aisles and loading spaces must be paved with asphalt, concrete, interlocking masonry pavers or surfaced with open honeycomb paving blocks which allow grass or ground cover to grow, except as otherwise authorized by the Director of Buildings and Inspections.
- (c) Drainage. All paved parking areas, access drives and loading spaces must have satisfactory disposal of surface waters by grading and drainage subject to approval by the Metropolitan Sewer District.
- (d) Maintenance. Parking areas, maneuvering aisles and loading spaces must be maintained in good condition, free from broken asphalt, concrete, potholes and weeds and in a state of equivalent quality to that which was approved or required by the City.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 250-2005, eff. July 21, 2005)

JUSTIFICATION FOR APPEAL

Charles T. Salemme ("Mr. Salemme") is the listed owner of 6408 Warrick Street, Cincinnati, Ohio ("the Property"). Mr. Salemme has owned the Property since 1983 and has rented the Property to various tenants, each of which has conducted commercial business within the building that stands on the Property ("the Building") while using another portion of the Property ("the Lot") to park vehicles. Each of those tenants, including the current tenant, has benefitted from a separate paved parking area that is available to invitees of their respective businesses. The current tenant, who uses the Building as a headquarters for vehicle sales, uses the Lot as an accessory parking lot for vehicles which it has towed to the Property and intends to sell. The Lot is surfaced with approximately seventy tons of compacted limestone and since Mr. Salemme's tenants began using the Lot to park vehicles, it has never offered parking to the public and has never been paved.

On or about October 25, 2013, Mr. Salemme received a Notice of Violation and Order ("Notice") that was dated October 22, 2013² and issued pursuant to § 1451-01 of the Zoning Code of the City of Cincinnati ("CZC"). The Notice in part, cites CZC § 1425-37(b) in isolation and gives Mr. Salemme until November 21, 2013 to either "discontinue parking on unpaved surfaces" or obtain any and all applicable permits and pave the Lot. (See Notice, Violation Listing 2). It is from that portion of the Notice which Mr. Salemme now appeals.

"Zoning ordinances are in derogation of the common law. They deprive a property owner of uses of his land to which he would otherwise be entitled. Therefore, where interpretation is necessary, such enactments are ordinarily construed in favor of the property owner. [] Furthermore, in determining the legislative intent of an ordinance, the provision to be construed should not be reviewed in isolation. Its meaning should be derived from a reading of the provision taken in the context of the entire ordinance." *University Circle, Inc. v. City of Cleveland* (1978), 56 Ohio St.2d 180, at 184, 383 N.E.2d 139, 141 (citations ommitted). As will be discussed below, when the paving requirements of CZC § 1425-37(b) are read in context with the entire CZC, it is clear that these requirements are meant to apply only to those parking areas that are made available to the public, either voluntarily or as required by the CZC.

¹ "Vehicle and equipment sales and rental" is a permitted use in Manufacturing Limited subdistricts, as are unlisted accessory uses customarily incidental to a permitted use such as the parking lot at issue.(see CZC § 1413-05).

² Despite the date of the Notice, records indicate that is was not mailed out until October 23, 2013. (See attached Inspections Report for Complaint # BC20130509).

The CZC defines a "parking lot" as "a surface lot that provides off-street parking for motorized vehicles, other than an automobile holding facility," (CZC § 1401-01-P4), and a "parking facility" as "a parking lot or a parking garage offering parking to the public…" (CZC §§ 1401-01-P2-A, 1401-01-P2-B).³ Thus not all "parking lots" are "parking facilities" under the CZC. Furthermore, the CZC defines a "parking space" as "a permanently surfaced area *in a parking facility* for the parking of a motor vehicle." (CZC § 1401-01-P5) (Emphasis added).

The CZC's parking and loading regulations are meant to "[r]equire adequate off-street parking and loading, thereby reducing traffic congestion [,] [a]llow more efficient use of onstreet parking [, and to] [p]romote more efficient loading operations, reducing the use of public streets for loading purposes." (See CZC § 1425-01). Accordingly, "[o]ff-street parking and loading spaces must be provided for uses that are established, enlarged, extended or moved onto any lot after the effective date" of the CZC and a certain number of spaces "must be provided in accordance with Schedules 1425-19-A and 1425-19-B" of the CZC. (CZC §§ 1425-03, 1425.19). The CZC's repeated reference to these "required *parking spaces*" makes clear that in enacting Chapter 1425, the legislature intended to ensure that adequate parking was made available to the public. (See e.g. CZC §§ 1425-03; 1425-11; 1425-23(d); 1425-35(a),(b); 1425-38(c)(1)).

The CZC further requires that such "parking and loading *facilities* must be made permanently available to the use served," (CZC § 1425.19) (emphasis added), and imposes additional requirements upon parking areas that are made available to the public voluntarily or as required by the CZC. Such additional requirements include but are not necessarily limited to the following:

- 1) "Parking spaces must [with limited exception] be on the same lot as the principal buildings" and must comply with certain locational requirements. (CZC § 1425-15) (Emphasis added);
- 2) "[P]arking space[s] used to comply with the parking requirements ... may not be less than 8.5 feet in width..." (CZC § 1425-25 (made applicable only to "off-street parking and loading facilities")) (Emphasis added);

³ Because the Lot is not "used for the parking of vehicles needing mechanical, body or chassis repair being vehicles not owned by the person who towed the vehicle or the person who will make the repairs and not involving the removing of parts, accessories, equipment or sections or portions thereof for sale to others or the keeping, buying or selling of junked, wrecked, scrapped, ruined or dismantled motor vehicles" it is not an Automobile Holding Facility. (See CZC § 1401-01-A14).

- 3) "Each parking space and parking facility must be identified by [certain] surface markings at all times," including directional arrows that identify "[o]ne-way and two-way access ways into required parking facilities..." (CZC § 1425-31) (Emphasis added);
- 4) "An access drive connecting the required parking spaces to a street must be provided... [and]... Maneuvering aisles and driveways may serve both required parking spaces and loading spaces..." (CZC § 1425-35(a),(b)) (Emphasis added); and finally
- 5) "Parking and loading facilities must comply with the following standards:

. . .

(b) Parking areas ... must be paved with asphalt, concrete, interlocking masonry pavers or surfaced with open honeycomb paving blocks which allow grass or ground cover to grow..." (CZC § 1425-37(b)) (Emphasis added).

While it is true that CZC § 1425-37(b), when read in isolation, appears to apply to all "parking areas," when it is taken in context with the entire CZC, it is clear that the required "Surfacing, Drainage and Grade of Parking and Loading Facilities" are meant to be applied only to those parking areas which by definition are made available to the public, either voluntarily or as required by the CZC. To hold otherwise would vitiate the distinction made by CZC between "parking lots" and "parking facilities." In any event, where such interpretation is needed to determine the meaning of this zoning provision, the CZC's provisions should be construed in favor of the property owner, Mr. Salemme. (Cf. University Circle, Inc. v. City of Cleveland, supra). Since the Lot in question is neither required by the CZC, nor made available to the public, the paving requirements of CZC § 1425-37(b) do not apply to the Lot.

§ 1413-05. Land Use Regulations.

Schedule <u>1413-05</u> below prescribes the land use regulations for M Manufacturing Districts. The regulations for each subdistrict are established by letter designations as follows:

- (a) "P" designates permitted uses. These uses may be subject to additional regulations as indicated.
- (b) "L" designates uses that are permitted, subject to certain limitations. Numeric suffixes refer to limitations listed at the bottom of Schedule 1413-05. Except as otherwise indicated, modifications of a numerical, locational or dimensional limitation requires a variance under Chapter 1445 Variances, Special Exceptions and Conditional Uses.
- (c) "C" designates uses permitted only after review and approval of the conditional use by the Zoning Hearing Examiner. These uses may be subject to additional regulations as indicated.

Use classifications are defined in <u>Chapter 1401</u>: Definitions. Use classifications not listed in Schedule <u>1413-05</u> are prohibited.

Schedule 1413-05: Use Regulations - Manufacturing Districts

Use Classifications	MA	ML	MG	ME	Additional
					Regulations
Residential Uses					
Day care home—Adult	Р	_			
Day care home—Type A	L9				
Day care home—Type B	L1	_	-		
Group residential					
Convents and monasteries		L1			
Fraternities and sororities	_	L1			
Patient family homes	_	L1		_	
Rooming houses		L1	-		
Shared housing for the elderly	Р	L1		_	
Permanent residential					
Single-family dwelling	Р	L1	_	_	
Attached single-family	Р	L1		_	See <u>§ 1403-13</u>
dwelling					
Two-family dwelling		L1		_	
Multi-family dwelling	_	L1	_		
Residential care facilities					
Developmental disability dwelling	Р	. P		_	
Special assistance shelter	_	С	_		
Transitional housing					
Programs 1-4		P	P	_	
Programs 5, 6	_	_	Р	_	
Public and Semipublic Uses			•		
Community service facilities	Р	Р	_	_	
Day care center	Р	Р	L3		

Government facilities and					
offices					
Correctional institutions	_		С	_	
Facilities and installations	_		c		
Juvenile detention facilities			C		
Offices	P	Р	Р		
Park and recreation facilities	P	P	_		
Public maintenance facilities		P	P		
Public safety facilities	С	P	Þ	P	
Religious assembly	P	P			
Schools, public or private	P	P			
Commercial Uses	1	11			
Ambulance services		Р	р	I	
	_	p	D		
Animal services	-	P	1		
Banks and financial institutions		 	P		
Building maintenance services		P	P		
Building materials sales and	_	P	P	P	
services					-
Business services	_	Р	P		
Eating and drinking					
establishments					
Drinking establishments	_	Р	Р	_	ļ
Restaurants, full service	_	Р	P		See § 1419-21
Restaurants, limited		Р	Р		See § 1419-21
Food markets		L5	L5		
Food preparation	P	Р	Р		
Garden supply stores and	L17	P	_		
nurseries					
Laboratories, commercial	_	Р	P		
Loft dwelling units	Р	Р	P		See § 1419-23
Maintenance and repair	Р	P	P	_	
services					
Medical services and clinics	_	Р	P		
Offices	P	P	Р	Р	
Parking facilities		Р	Р	С	See Chapter
					1425
Personal instructional services	P	P	Р		
Personal services	_	L5	L5		
Private vehicular storage lot	_	_	Р	_	
Recreation and entertainment					
Indoor or small-scale		Р	Р		
Outdoor or large-scale	_	c	_	_	
Retail sales		L5	L5		
Sexually oriented business			P		See § 1419-25
Vehicle and equipment services		<u> </u>	<u> </u>		
Vehicle and equipment sales		L2	L2	<u> </u>	
and rental					
Car wash		L3	Р		See § 1419-11
Fuel sales		L3	P		See § 1419-15
			P		See § 1419-27
Vehicle repair	<u></u>	<u></u>	<u> </u>	<u></u>	DEE 3 1417-21

Automobile holding facility Industrial Uses			L4	<u> </u>	
Production industry			1		T
Artisan	P	P	P	P	
General			P	P	
			<u> </u>	C	Soo 5 1410 10
Intensive high-impact	P	P	P	P	See § 1419-19
Limited	<u></u>	P	P	P	
Research and development	P	Ψ	P	-	
Warehousing and storage			l n		
Contractor's storage	_	C P	P		
Indoor storage		P			
Oil and gas storage			<u>C</u>	C	
Outdoor storage	_	_	<u>C</u>	C	
Metal waste salvage yard/junk			C	С	
yards Wasto management					
Waste management Waste collection		P	P	P	See § 1419-31
Waste disposal			·	C	JCC 3 1417-31
Waste disposal Waste transfer			C	<u>C</u>	Coo 5 4 440 34
	<u>-</u> Р	 P	C P	P	See § 1419-31
Wholesaling and distribution	P	P	P	P	
Transportation, communication					
and utilities					
Communications facilities	P	P	P		
Public utility distribution	_	P	P	P	
system					
Public utility maintenance yard		P	P	P	
Public utility plant		C	P	Р	
Radio and television broadcast	_	P	P	_	
antenna					
Transportation facilities					
Airports		L6	-		
Heliports	_	L6	L6	L6	
Railroad train yards		L7	L7	L7	
Railroad right-of-way		P	P	P	
Transportation passenger	-	P	P	Р	
terminals					
Truck terminal and warehouse		_	L7	L7	-
Wireless communication	L13	L8	L8	L8	
antenna					
Wireless communication tower		C	<u> c</u>	c	
Agriculture and Extractive Use			T		T.
Community gardens	Р	Р	Р		See § 1419-41
Farming	Р				See § 1419-38
Mining and quarrying		_	С	C	
Accessory Uses					See <u>Chapter</u> 1421
Any accessory use not listed	L10	L10	L10	L10	
below					
Refuse storage area	L12	L12	L12	L12	See § 1421-35
Drive box	L11	<u>L11</u>	L11	L11	
Commercial vehicle parking	L14	P 11	Р	Р	

Exterior lighting	P	P	P	P	See § 1421-39
Composting facilities	P	_	-		See § 1421-37
Home occupation	P	_	_	_	See § 1419-17
Rooming unit	L15	_		_	
Retail Sales	L16			_	
Portable Storage Containers	Р	Р	Р	P	See § 1419-24
Nonconforming Uses					See Chapter
					1447

Specific Limitations	
L1 New residential is permitted only when abutting an	L2 Permitted on arterial street only. Vehicle loading and
existing residential use or structure.	unloading must occur on-site.
L3 Permitted only as an accessory use to a use allowed	L4 The facility must be completely enclosed on all sides
in the district.	with a six foot screen fence which is protected from
	damage by a guardrail or other barriers approved by
	the Director of Buildings and Inspections. Must be
	located at least 100 feet from a residential district.
L5 Permitted only if occupying less than 5,000 sq. ft. in	L6 Landing strip, pad, or apron may not be located
ML and 10,000 sq. ft. in MG.	within 500 ft. of a residential district boundary.
L7 Not allowed within 250 ft. of a residential use in a	L8 Antenna height may not exceed 20 feet; greater
Residential District.	height requires a conditional use approval. The antenna
	may be attached to a multi-family, public or
	semi-public, public utility, a commercial or industrial
	building or structure.
L9 Fencing a minimum of four feet in height must be	L10 Accessory uses determined by the Director of
provided for purposes of securing outdoor play areas	Buildings and Inspections to be customarily incidental to
which must be located in the rear yard only.	a use of the district are permitted. All others require
	conditional use approval.
L11 The storage space is less than 30 cubic yards;	L12 Provisions of § 1421-35 apply when refuse storage
enclosed by a screen fence or within a structure; and at	
least 100 feet from any property used for residential	
purposes.	
L13 Antenna height may not exceed 20 feet; greater	L14 One commercial vehicle may be parked or stored on
height requires a conditional use approval. The antenna	
may be attached to an agricultural, public or	a. Commercial vehicles with current license owned by a
semi-public or public utility building or structure.	resident of the residential property on which it is stored
	or parked may not exceed two tons in capacity.
	b. Recreational vehicles, watercraft and personal
	trailers may be parked on the lot beyond the front yard.
L15 No more than two rooming units may be rented or	L16 Retail sales of products manufactured or wholesaled
leased in a single-family dwelling.	on the premises, when incidental and subordinate to a
	principal permitted use, provided that the floor area
	devoted to such retailing shall not exceed 35 percent of
	the floor area devoted to such principal use, but in no
	case shall the retail floor area exceed 5,000 square
147 Descripted only if acquiring a group than 5 000 and	feet.
L17 Permitted only if occupying no more than 5,000 sq.	
ft. in the MA.	



Businesses

Residents

Visitors

Services & Payments

Government

Focus on 52

ezTrak — Code Enforcement Reviews — Address Search

34	Complai
	compa









Use this screen to search for Code Violations by Address.

Explanantion of the Different Complaint Status Levels

Address Search

Exact Street Number: 6408

Street Name: warrick

 $\hfill\Box$ Check for all addresses for this building.

Street Numbers are Required.

Search | Export to Excel

Street Names are Optional.
Do not include St., Ave., Ct., etc.
1713 VI will find 1713 VINE and 1713 VINTON.

Olie Stone	352-1916

Inspections for Complaint # BC20130509 — 6408 WARRICK ST

ADDRESS	WHEN	ID	NOTATION	DESCRIPTION
6408 WARRICK ST	10/23/2013 12:00:00 AM	6808	ZONE Print Orders	Notice of Violation mailed out - copy to inspector and to scan.
6408 WARRICK ST	11/6/2013 12:00:00 AM	6830	ZONE Servc of Ntce(Y=Comp)	C210-I posted a copy of orders on the premises.
6408 WARRICK ST	10/23/2013 12:00:00 AM	6808	ZONE Print Orders	
6408 WARRICK ST	10/22/2013 12:00:00 AM	7063	ORD-Supervisor Status App	Entered at Supevisr Status Chng
6408 WARRICK ST	10/22/2013 12:00:00 AM	6808	ZONE Print Orders	Orders printed
6408 WARRICK ST	10/18/2013 12:00:00 AM	6802	ZONE Initial CmpInt Insp(Y=Com	C100-Violation observed; Issue orders.
6408 WARRICK ST	10/18/2013 12:00:00 AM	6806	ZONE Orders Recommd(Y=Rec)	C100-Volation observed; Issue orders.

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383 N.E.2d 139 (Ohio 1978)

56 Ohio St.2d 180

In re Appeal of University Circle, Inc.

UNIVERSITY CIRCLE, INC., Appellant,

v.

CITY OF CLEVELAND et al., Appellees.

No. 78-335.

Supreme Court of Ohio.

December 6, 1978

University Circle, Inc., appellant herein, is a nonprofit corporation founded in 1957 by Case Institute of Technology, Western Reserve University and University Hospitals of Cleveland. Appellant coordinates the activities of 29 other non-profit cultural, educational, scientific, health-related and religious institutions which are located in the University Circle area. One of appellant's principal functions is to acquire and maintain land to be used for parking by patrons and employees of the various institutions in the University Circle area.

On June 13, 1975, appellant filed an application with the City of Cleveland Department of Community Development, which requested a building permit authorizing appellant to: " * * * construct a 30 car parking lot on a 98' X 391' irregular shaped corner parcel located in an E-Multi-Family District on the N.W. corner of East 115th

Page 140

Street and Cornell Road at 2069-77 Cornell Road, said use being contrary to the residence limitations of Section 5.1109(a) but subject to the off-street parking provisions of Section 5.1119(d) of the Codified Ordinances of the City of Cleveland."

The land upon which the proposed parking lot would be located is owned by appellant and contained within a [56 Ohio St.2d 181] zoning district designated by the city zoning code as "Multi-Family." The property is located 230 feet from a hospital, 195 feet from the Case-Western Reserve University Health-Sciences complex and 60 feet from a day center for disturbed children. Currently, two homes are located upon the lot and they comprise a part of the remaining residential neighborhoods within the area.

The city of Cleveland apparently denied appellant's application for a building permit on the ground that the proposed construction required a variance from the board of zoning appeals. Pursuant to that determination, appellant filed an application for a variance to build the parking lot.

Appellant's cause came Before the City of Cleveland Board of Zoning Appeals for a hearing on July 14, 1975. It was appellant's contention at the hearing that the Code of Municipal Ordinances of the city of Cleveland authorized the construction of the parking lot as an accessory use to its nearby hospital. Moreover, it was maintained that the board should issue appellant a minor variance authorizing the construction of a driveway between the proposed parking lot and an existing one located in close proximity to the proposed lot. However, this latter question has not been preserved in the instant appeal.

Appellant's request for a variance was contested by appellee city of Cleveland and the intervenors in this cause, the East 115 Street/Cornell Road Neighborhood Association.

Intervenors argued that appellant had no need for additional parking facilities and that the destruction of the two homes at the situs of the proposed lot would have an adverse impact on the immediate neighborhood.

By resolution dated July 14, 1975, appellant's request for a variance was denied by the board of zoning appeals.

Appellant appealed to the Court of Common Pleas of Cuyahoga County and the ruling of the board was reversed. Thereafter intervenors appealed to the Court of Appeals and the judgment of the Court of Common Pleas was [56 Ohio St.2d 182] reversed. The Court of Appeals held that the applicable ordinances required appellant to obtain a variance prior to the construction of the lot and that the board's refusal to issue the variance was supported by sufficient evidence.

The cause is now Before this court pursuant to the allowance of a motion to certify the record.

Jones, Day, Reavis & Pogue, Raymond J. Durn and Michael A. Nims, Cleveland, for appellant.

Jack M. Schulman, DirecCtor of Law, and Robert McCarthy, Cleveland, for appellee.

Lloyd B. Snyder, Cleveland, for intervenor-appellees.

PER CURIAM

Appellant contends that the Court of Appeals misconstrued the zoning provisions pertinent to this

controversy and that a variance from the board of zoning appeals is not required prior to the proposed construction. Appellant urges further that the construction of a parking lot is an "accessory use" to the operation of a hospital.

Cleveland zoning ordinance No. 1205-58, effective August 10, 1958, as found in Section 5.11020101 of the zoning code defines "accessory parking space" as: [*]

"Accessory parking space shall be an area open or enclosed, of not less than one hundred eighty (180) square feet accessible from a street or streets, exclusive of drives

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or access area and to be used solely for the storage or parking of motor vehicles for use by the owner, tenants, visitors, patients, clients, customers, or employees of the main building, structure or land use. Off-street loading requirements shall not be considered as accessory off-street parking spaces."

Section 5.1109 of the zoning code, in applicable part, provides: [56 Ohio St.2d 183]

"Multi-Family Districts.

"(a) Permitted Buildings and Uses.

"Except as otherwise specifically provided in this Chapter, no building or premises in a Multi-Family District shall hereafter be erected, altered, used, arranged, or designed to be used, in whole or in part for other than one or more of the following specified uses:

"5. The following buildings and uses if located not less than 15 feet from any adjoining premises in a Residence District not used for a similar purpose:

"***

"5e. Hospitals; sanitariums, nursing, rest or convalescent homes; not primarily for contagious diseases nor for the care of epileptics or drug or liquor patients, nor for the care of the insane or feeble-minded.

"6. Accessory uses permitted in a Multi-Family District."

Section 5.1110 of the code, entitled "Accessory Uses in Residence Districts," provides in subsection (a) that the following uses are permitted:

"7. Garages and parking spaces for the occupants of the premises and, when the premises are used for other than residence purposes, for their employees, patrons, and guests.

"7b. In Multi-Family Districts, garages and parking spaces erected or established as accessory uses shall be subject to the restrictions specified in Sections 5.1118 to 5.1131 inclusive, of this Chapter."

Subsection (a)7 above indicates that parking spaces are permitted uses within "Residence Districts." Subsection (a)7b provides that such spaces are subject to the restrictions stated in Sections 5.1118 to 5.1131, inclusive. The only applicable section therein relevant to the present controversy is Section 5.1119(c), which provides, Inter alia: [56 Ohio St.2d 184]

"Residence Districts Permitted Garages and Parking Space.

"(c) Parking Lots. When in its opinion the best interests of the community will be served thereby, the Board of Zoning Appeals may permit temporarily or permanently the use of land in a Residence District other than a Limited One-Family District for a parking lot where the land abuts or is across the street from a District other than a Residence District * * *."

The Court of Appeals held that unless appellant's planned accessory use meets the requirements of Section 5.1119, a variance is required to construct the parking lot. We disagree. Zoning ordinances are in derogation of the common law. They deprive a property owner of uses of his land to which he would otherwise be entitled. Therefore, where interpretation is necessary, such enactments are ordinarily construed in favor of the property owner. 3 Anderson, American Law of Zoning (2d Ed. 1976), 4, Section 16.02; Pepper Pike v. Landskroner (1977), 53 Ohio App.2d 63, 76, 371 N.E.2d 579. Furthermore, in determining the legislative intent of an ordinance, the provision to be construed should not be reviewed in isolation. Its meaning should be derived from a reading of the provision taken in the context of the entire ordinance. Taft v. Zoning Bd. of Rev. of Warwick (1949), 75 R.I. 117, 64 A.2d 200; Kordick Plumbing and Heating Co. v. Sarcone (Iowa 1971), 190 N.W.2d 115; Talarico v. Conkling (1975), 168 Conn. 194, 362 A.2d

In order to determine if a variance is required and what "accessory uses" are authorized in the cause at bar, it is necessary

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to review Section 5.1110(a) 7b in context with preceding applicable provisions. Initially, it is clear from the language of Section 5.1109(a)5e that the construction of a hospital is a permissible use of land within a multi-family

district. Moreover, 5.1109(a)6 provides that this land may be used for those "(a)ccessory uses permitted in a Multi-Family District." Subsection (a)7 of Section [56 Ohio St.2d 185] 5.1110 (entitled "Accessory Uses in Residence Districts") authorizes the construction of parking spaces in a "Residence District." "Residence District," as used in Section 5.1110(a), authorizes the construction of parking lots on land which is zoned "Multi-Family." Thus, unless Section 5.1119(c), Supra, applies to appellant, no variance is needed for the construction of appellant's parking lot. In our opinion, the language of that section renders it inapplicable to appellant's property, which neither abuts nor is across the street from a district other than a residence district.

Accordingly, the judgment of the Court of Appeals with respect to the construction of the proposed parking lot is reversed.

Judgment reversed.

LEACH, C. J., and HERBERT, PAUL W. BROWN, SWEENEY and LOCHER, JJ., concur.

CELEBREZZE and WILLIAM B. BROWN, JJ., dissent.

Notes:

[*] The cited sections of the city zoning code have been superseded by a recodification of the provisions of the code. However, for purposes of consistency, the same section numbers are used here as were used in the Court of Appeals.

§ 1401-01-P2-A. Parking Facility, Principal Use.

"Parking facility, Principal Use," means a parking lot or a parking garage offering parking to the public and is the principal use of the premises.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 415-2010, § 7, eff. Dec. 24, 2010) Editor's note— Formerly § 1401-01-P2.

§ 1401-01-P2-B. Parking Facility, Accessory Use.

"Parking facility, Accessory Use" means a parking lot or a parking garage offering parking to the public and except as other specified, incidental to a principal structure or use on the same lot.

(Ordained by Ord. No. 415-2010, § 8, eff. Dec. 24, 2010)

§ 1401-01-P4. Parking Lot.

"Parking lot" means a surface lot that provides off-street parking for motorized vehicles, other than an automobile holding facility.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

§ 1401-01-P5. Parking Space.

"Parking space" means a permanently surfaced area in a parking facility for the parking of a motor vehicle.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

§ 1401-01-A14. Automobile Holding Facility.

"Automobile holding facility" means a building or ground area used for the parking of vehicles needing mechanical, body or chassis repair being vehicles not owned by the person who towed the vehicle or the person who will make the repairs and not involving the removing of parts, accessories, equipment or sections or portions thereof for sale to others or the keeping, buying or selling of junked, wrecked, scrapped, ruined or dismantled motor vehicles.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

§ 1425-01. Purposes.

The purposes of the parking and loading regulations are to:

- (a) Require adequate off-street parking and loading, thereby reducing traffic congestion.
- (b) Allow for more efficient use of on-street parking.
- (c) Promote more efficient loading operations, reducing the use of public streets for loading purposes.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

§ 1425-03. Requirements for Off-Street Parking and Loading.

Off-street parking and loading spaces must be provided for uses that are established, enlarged, extended or moved onto any lot after the effective date of these zoning regulations, or of a subsequent rezoning or other amendment establishing or increasing parking or loading requirements for the uses, except within an Urban Parking Overlay District established according to <u>Section 1425-04</u>. When an expanded use results in an increase of more than ten percent in the number of currently required parking spaces, additional parking must be provided for the additional space based on the standards of this chapter.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 121-2008, § 1, eff. May 23, 2008; Ord. No. 259-2013, § 3, eff. Sept. 7, 2013)

§ 1425-19. Off-Street Parking and Loading Requirements.

Off-street parking and loading requirements must be provided in accordance with Schedules 1425-19-A and 1425-19-B. Unless a use is specifically noted under the appropriate use classification heading, the parking and loading requirements apply uniformly to all uses within a use classification. Off-street parking and loading requirements for uses in the DD Districts are subject to the provisions of <u>Chapter 1411</u>, Downtown Development Districts.

Off-street parking and loading facilities must be made permanently available to the use served. Where the use is undetermined or the parking requirement is not established in Schedule 1425-19-A, the Director of Buildings and Inspections must determine the probable use and number of spaces required.

Commercial uses located in Commercial, Office, and Manufacturing zoning districts are entitled to an exemption from the parking requirements as follows:

- (a) Commercial Uses in the CN-P and CC-P Zoning Districts. The first 2,000 square feet of gross floor area of existing and new commercial uses are exempted from the off-street parking requirements.
- (b) Commercial Uses in the CN-M, CC-M, OL, OG, IR, RF-C and ML Zoning Districts. The first 2,000 square feet of gross floor area of existing commercial uses are exempted from the off-street parking requirements. New commercial uses are not exempted from the parking requirements.
- (c) Commercial Uses in the CC-A, CG-A, MG and RF-M Zoning Districts. Commercial uses are not exempted from the parking requirements.

Schedule 1425-19-A: Off-Street Parking and Loading Requirements

Use Classifications	Required Parking	Loading User Group
	(Sq. Ft. of Floor Area)	
Residential Uses		
Bed and breakfast home	2 for every dwelling, plus 1	
	for every guest room	
Child day care home	No additional spaces	
	required	
Group residential	1 for every 2 residents	
Permanent residential		
Single-family		
SF-4, SF-6, SF-10, SF-20	2 for every unit	
SF-2, RM, O, C, M, UM, RF-R and IR	1 for every unit	
Attached single-family	1 for every unit	
Rowhouse single-family	1 for every unit	
Two-family	1 for every unit	
Multi-family		
RM2.0, RM1.2, OL	1.5 for every unit	
RM0.7, OG, C, UM, M, RF-R and IR	1 for every unit	
Residential care facilities		
Assisted living	1 for every 4 residents	
Developmental disability dwelling	21 r every 4 residents	

Nursing home	1 for every 4 residents	
Special assistance shelters	1 for every 3 employees	
	plus 1 for every facility	
	vehicle	
Transitional housing	1 for every facility plus 1	
	for every 8 beds	
Public and Semi Public Uses		
Cemeteries	None	
Day care center	2 for every facility, plus 1	
	for every 8 clients	
Clubs and lodges	1 for every 100 sq. ft.	3
Colleges, public or private	1 for every 3 auditorium	3
i e e e e e e e e e e e e e e e e e e e	seats plus 1 for every 5	
	classroom seats	
Community service facilities	1 for every 100 sq. ft.	
	1 for every 500 sq. ft. or 1	3
	for every 8 seats,	
i l	whichever is greater	
Government facilities and offices		
Facilities and installations	1 for every 1,000 sq. ft.	1
Correctional institutions	1 for every 20 beds	1
	1 for every 750 sq. ft.	1
	1 for every bed	3
	1 for every 100 sq. ft. of	
!	lindoor area	
	1 for every 1,000 sq. ft.	
	1 for every 250 sq. ft.	
	1 for every 30 sq. ft. in	
; -	principal assembly area	
		3
	classroom seats	ľ
	Elementary School: 1 for	3
	every 30 classroom seats	
Commercial Uses	jevery 30 etassi oom seats	
First 2,000 square feet of gross floor area of existing and	Fyempt - no spaces	
		
	, oquitoui	
	As required below	
	, is a squired betom	
	As required below	
1	no required betom	
	1 for every 250 sq. ft.	
		2
parks and imancial institutions	· · · · · · · · · · · · · · · · · · ·	<u></u>
	_	
and ML districts. New commercial uses in the CC-M, CC-A, CG-A, OL, OG, IR, RF-C, ML, MG and RF-M districts. New and existing commercial uses in the CC-A and CG-A districts. Ambulance services Animal services Banks and financial institutions	Exempt - no spaces required. As required below.	2

Bed and breakfast inns	1 for every facility plus 1	
Duilding materials and soming	for every guest room	
Building materials and services	1 for every 400 sq. ft.	4
Building maintenance services	1 for every 400 sq. ft.	
Business services	1 for every 250 sq. ft.	
Commercial meeting facility	1 for every 50 sq. ft.	3
Eating and drinking establishments		
Drinking establishments	1 for every 150 sq. ft.	
Restaurants, full service	1 for every 150 sq. ft.	
Restaurants, limited service	1 for every 150 sq. ft.	
Food markets	1 for every 150 sq. ft.	1
	where it exceeds 2,000 sq. ft.	
Food preparation	1 for every 750 sq. ft.	
Funeral and interment services	1 for every 50 sq. ft. used	
	for assembly	
Garden supply stores and nurseries	1 for every 400 sq. ft.	
Hotels and commercial lodging	1 for every guest room	3
Loft dwelling units	1 for every unit	
Laboratories, commercial	1 for every 250 sq. ft.	
Maintenance and repair services	1 for every 400 sq. ft.	
Medical services and clinics	1 for every 150 sq. ft.	
Offices	1 for every 400 sq. ft.	2
Personal services	1 for every 250 sq. ft.	
Personal instructional services	1 for every 250 sq. ft.	
Recreation and entertainment	Thor every 250 sq. ic.	<u> </u>
Indoor and small scale		
Bingo parlors, fitness centers, gymnasiums	1 for every 50 sq. ft	
Billiard parlors, poolrooms, amusement arcades,	1 for every 50 sq. ft.	
handball, racquetball or tennis club facilities, ice or	1 for every 250 sq. ft.	
roller skating rinks, miniature golf courses		
Movie theater (three or less screens)	1 for every 5 seats	
Bowling centers	5 for every bowling lane	
	13 for every bowting table	
Outdoor or large scale	1 for over 5 cents	I
Sports stadiums and arenas, movie theaters (4 or more screens), racetracks	l for every 5 seats	
Amusement and theme parks, driving ranges,	1 for every 1 000 sg. ft	
swimming or wave pools, entertainment complexes,	1 for every 1,000 sq. ft.	
drive-in theaters, archery or shooting ranges, riding		
stables, campgrounds		
Retail sales	1 for every 250 sq. ft.	1
	·	
Sexually oriented business Vehicle and equipment services	1 for every 250 sq. ft.	
Vehicle and equipment services Vehicle and equipment sales and rental	1 for over, 400 cc. ft. of	
venicle and equipment sales and relitat	1 for every 400 sq. ft. of office sales or rental area	
Car wash	See § 1419-11	
Fuel sales	None	
Vehicle repair	2 for every service bay or 1	
•	for every 250 sq. ft.,	
	whichever is greater	

Production industry	1 for every 1,000 sq. ft.	4
Research and development	1 for every 750 sq. ft.	2
Warehousing and storage		
Contractor's storage	1 for every 1,000 sq. ft.	
Indoor storage	4 spaces	
Waste management	1 for every 1,000 sq. ft.	
Wholesaling and distribution	1 for every 1,000 sq. ft.	4
Transportation, Communication and Utilities	Uses	
Communications facilities	1 for every 600 sq. ft. plus 1 for every 3 auditorium seats	2
Public utility distribution system	1 for every 1,000 sq. ft.	
Public utility maintenance yard	1 for every 1,000 sq. ft.	
Public utility plant	1 for every 1,000 sq. ft.	
Public vehicle operations and service	1 for every employee plus 1 for every taxi and/or limousine	
Transportation facilities		
Airports	1 for every 250 sq. ft of terminal building	1
Heliports	None	
Railroad train yards	None	
Railroad right-of-way	None	
Transportation passenger terminals	1 for every 2,000 sq. ft.	
Truck terminal and warehouse	0-100,000 sq. ft: 1 for every 2,000 feet	4
	Over 100,000: 1 for every 4,000 sq. ft. over 100,000 sq. ft.	4
Watercraft and riverfront facilities		
Barge terminals	1 for every 2,000 sq. ft.	
Boat and ship yards	1 for every 2,000 sq. ft.	
Commercial piers and ports	1 for every 2,000 sq. ft.	
Marinas	1 for every two berths	
Marine sales and services	1 for every 400 sq. ft.	
Agriculture and Extractive Uses		
Farming	1 for every site	
Mining and quarrying	1 for every 1,000 sq. ft.	

Schedule 1425-19-B: Loading User Group Classification

Requirement	
No spaces required	
1 space	
2 spaces	
3 spaces	
	No spaces required 1 space 2 spaces

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100,000 sq. ft. or more	1 additional space for each 100,000 sq. ft. in excess of 100,000 sq. ft.	
Group 2		
0–29,999 sq. ft.	No spaces required	
30,000-99,999 sq. ft.	1 space	
100,000-499,000 sq. ft.	1 additional space for every 100,000	
500,000 sq. ft. or more	1 additional space for every 500,000	
Group 3		
0–9,999 sq. ft.	No spaces required	
10,000-99,999 sq. ft.	1 space	
100,000 sq. ft. or more	1 additional space for each 100,000 sq. ft.	
Group 4		
0–4,999 sq. ft.	No spaces required	
5,000-39,999 sq. ft.	1 space	
40,000–99,999 sq. ft.	2 spaces	
100,000 sq. ft. or more	1 additional space for each 100,000 in excess of 100,000	

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 96-2006, § 1, eff. May 18, 2006; a. Ord. No. 0022-2007, § 1, eff. Feb. 18, 2007; a. Ord. No. 0346-2007, § 12, eff. Oct. 13, 2007; a. Ord. No. 121-2008, §§ 2, 3, eff. May 23, 2008; a. Ord. No. 174-2008, § 1, eff. June 29, 2008)

§ 1425-11. Calculation Rules.

When the units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half is rounded down to the next whole number and fractions of over one-half are rounded up to the next whole number.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

§ 1425-15. Location of Parking.

Parking spaces must be on the same lot as the principal buildings except as noted in (c) below, and must be located in compliance with the following:

- (a) Front-Yard Parking Prohibited. In the SF and RMX Districts, parking for all uses may not be located in any front yard. Parking may be permitted on access drives where such drives lead to the parking lots or spaces either within the principal building or in any accessory structure or at locations behind the front line of a building. In the RM-2.0, RM-1.2, RM-0.7, O, ML and RF Districts, no parking lots or spaces are permitted in the required front yard setback of the district.
- (b) Comer Lots. On a corner lot in the SF and RM Districts, parking spaces must be located in interior side or rear yards and be at least ten feet from the street lot line.
- (c) Off-Site Parking on Nearby Lots. Off-site parking to serve a nearby principal structure or principal use is permitted on a lot upon the satisfaction of all of the following conditions:
 - (1) the off-site parking lot shall be located within a 600-foot radius of the lot containing the principal structure or principal use;
 - (2) the off-site parking lot shall not be located in a SF Single-Family District; and
 - (3) (i) A written instrument shall be recorded in title to both the lot containing the principal structure or principal use and the off-site parking lot as follows:
 - (aa) If the lot containing the principal structure or principal use and the off-site parking lot are owned by the same owner, then a covenant shall be recorded; or
 - (bb) If the lot containing the principal structure or principal use and the off-site parking lot are owned by different owners, then a reciprocal easement shall be recorded.
 - (ii) In order to satisfy Condition 3(i) above, any such written instrument shall:
 - (aa) Be acceptable to the City Solicitor in substance and form;
 - (bb) State clearly on its face that it is irrevocable without the prior written consent of the Director of City Planning and Buildings;
 - (cc) State that the off-site parking lot shall be used and maintained exclusively for parking to serve the principal structure or principal use so long as the principal structure or principal use requiring such parking remains in existence and has not been abandoned, under the definition contained in Section 1447-07; and
 - (dd) State that the off-site parking lot shall in no way be deemed to be a nonconforming use or be permitted to continue to be used for parking if the parking is no longer needed to serve the principal structure or principal use.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 012-2011, § 1, eff. Feb. 26, 2011; Emer. Ord. No. 008-2013, § 1, eff. Jan. 16, 2013; Ord. No. 259-2013, § 5, eff. Sept. 7, 2013)

§ 1425-23. Reduced Parking.

The Director of Buildings and Inspections may grant a reduction in the number of spaces to less than that specified in Schedule 1425-19-A for the following:

- (a) Proximity to Public Parking Facilities. In the O, C, UM, and M Districts, where a use is located within 600 feet of a public parking facility, either publicly or privately owned and operated and the facility could provide 50 percent or more of the parking spaces required for the use, the director may approve a 50 percent reduction in the parking requirements for the use. If the reduced requirement results in fewer than five spaces being required, no spaces need be provided.
- (b) Multiple Uses on a Single Developme 26 : maximum allowable reduction in the number of spaces to

be provided may not exceed 15 percent of the sum of the number required for each individual use served and not less than the largest amount required for any of the uses computed separately. A covenant in a form satisfactory to the City Solicitor must be filed with the director in which the owner or owners of property comprising the site agree to participate in the shared parking program. The covenant must include the following:

- (1) An agreement that there will be no substantial alteration in the uses that will create a greater demand for parking.
- (2) An agreement among the landowners for access to and use of the shared parking spaces.
- (c) Housing for the Elderly and Persons with Disabilities. The parking requirements for Type A dwelling units is one parking space for every two units, provided that the owner files with the Director of Buildings and Inspections, a covenant that reserves those units for the exclusive use of the elderly and persons with disabilities. "Type A dwelling unit" means an accessible dwelling unit complying with Section 1002 of the American National Standard ICC/ANSI A117.1-1998. "Exclusive use of the elderly and persons with disabilities" means that at least one member of the household occupying the dwelling unit is 60 years of age or older or has a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.
- (d) Proximity to Streetcar. In SF, RM, RF-R, and UM Districts, where a residential use is located within 600 feet of a streetcar stop, the Director of City Planning and Buildings may grant a fifty percent reduction in the number of required parking spaces. If the effect of the 50% reduction means that fewer than three spaces are required, then no spaces need be provided.

(Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004; a. Ord. No. 370-2006, § 1, eff. Jan. 20, 2007; a. Ord. No. 0221-2007, § 7, eff. July 6, 2007; a. Ord. No. 416-2010, § 5, eff. Dec. 24, 2010)

§ 1425-25. Off-Street Parking and Loading Dimensions.

The following standards apply to off-street parking and loading facilities:

- (a) Size. A parking space used to comply with the parking requirements of this chapter may not be less than 8.5 feet in width, as measured perpendicularly to parallel straight lines and contain 160 square feet in area. The parking spaces, access drives and aisles of the parking facility design must be as approved by the Director of Buildings and Inspections.
- (b) Loading Space. Each loading space may not be less than ten feet in width and 25 feet in length. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

§ 1425-31. Parking Lot Markings.

Driveways and parking areas must include markings consistent with the following standards:

- (a) Markings. Each parking space and parking facility must be identified by surface markings at all times. The markings must be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles. Markings required to be maintained in a highly visible condition include striping, directional arrows and signs for handicapped-designated areas.
- (b) Directional Arrows. One-way and two-way access ways into required parking facilities must be identified by directional arrows. Any two-way access located at any angle other than 90 degrees to a street must be marked with a traffic separation stripe throughout the length of the access; this requirement does not extend to aisles.
- (c) Exit Signs. Where the exit may not be clearly recognizable, directional signage must be provided. (Ordained by Ord. No. 15-2004, eff. Feb. 13, 2004)

§ 1425-35. Access Drive and Maneuvering Aisles.

Access drives for parking purposes are permitted only in connection with permitted uses, except for access drives to restricted parking lots allowed by the Director of City Planning and Buildings in connection with uses in more restricted districts.

(a) Parking Access. An access drive connecting the required parking spaces to a street must be provided either on the same lot as the principal use 77 f located on a separate lot as the principal use by either of

the following recorded instruments: (i) a recorded covenant if the lot containing the access drive is owned by the same owner as the lot containing the principal use; or (ii) a recorded reciprocal easement if the lot containing the access drive has a different owner than the lot containing the principal use. In any event, any such recorded instrument shall state clearly on its face that it is irrevocable without the prior written consent of the Director of City Planning and Buildings and shall be acceptable to the City Solicitor. Where provided on the same lot as the principal use, the access drives must have a minimum width of eight feet and a maximum aggregate width of 20 feet. Where provided for by a recorded instrument, the access drive must have a minimum width of eight feet, except where the access drive serves more than two properties in which case the access drive must be 16 feet.

- (b) Maneuvering Aisles. Maneuvering aisles and driveways may serve both required parking spaces and loading spaces if they meet the requirements specified in §1425-19 and § 1425-25 for both parking and loading facilities.
- (c) Requirement for Wider Driveway. The City Engineer may require a wider driveway and driveway opening for a development.
- (d) Driveway Visibility. Visibility from a driveway may not be blocked between a height of three feet and seven feet for a depth of five feet from the street property line and five feet from the edge of the driveway or at the nearest property line intersecting the street property line, whichever is less. Refer to Figure 1425-35.